IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6912 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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THAKKAR KANTILAL DEVRAMBHAI
Versus
STATE OF GUJARAT AND OTHERS

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Appearance :
MR SUTHAR with MR NK MAJMUDAR for the Petitioner
GOVERNMENT PLEADER for Respondent(s) : 1, 3,
RULE SERVED BY DS for Respondent(s) : 2, 5,
MR GP VAGHELA for MR HS MUNSHAW for Respondent(s) : 4 - 5.

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 03/08/2007

ORAL JUDGMENT

The petitioner has challenged the decision of respondent No.5 dated 17th October 2002 whereby the petitioner's request to grant him financial aid as per second survey carried out by the authority was rejected. The petitioner is an earthquake affected person. His residential house was damaged in the earthquake which occurred on 26th January 2001. During the first survey that was carried out by the authority, it was noticed that damage to the premises of the petitioner was caused to the extent of Rs.1500. However, re-survey was carried out by the authority later on i.e. in the month of October 2002. In the said survey it was found that the damage was to the extent of Rs.78,000/-. The petitioner, therefore, requested the respondent to make payment of financial assistance as per report of the re-survey. In response thereof the respondent wrote a letter dated 17.10.2002. In the said letter the petitioner has been intimated that the survey carried out at the first instance was proper and the wall appeared to have been pulled down by the petitioner himself. In view of the same, the petitioner has now approached this Court by filing this petition.

I have heard Mr Suthar, learned advocate for the petitioner and Mr G.P. Vaghela for Mr HS Munshaw for the respondents. It is submitted by Mr Suthar that the decision of the respondent not to pay the assistance in consonance with the damage caused to the property of the petitioner is erroneous. He has submitted that this is only on account of personal prejudice entertained by the respondent against the petitioner. He has also submitted that the allegation levelled against the petitioner that he himself pulled down the wall to seek more compensation is without any basis. As against that, Mr G.P. Vaghela, learned advocate for the respondents has submitted that in the first survey it was found that the damage caused to the property of the

petitioner was nominal and, therefore, the compensation of Rs.1500 was sanctioned. He has submitted that the petitioner himself caused extensive damage to the property with a view to receive more compensation.

I have carefully considered the submissions of the learned advocates for the parties and I have also perused record of this petition. It is true that initially only Rs.1500 was sanctioned to be paid to the petitioner by way of compensation. However, there is no material to support the allegation made by the respondent that it was the petitioner who pulled down the rear wall of the house so as to get more compensation. When one survey is already made, it is highly doubtful whether the petitioner would destroy his own premises in the hope that the second survey would be carried out and that he would get more compensation. To his good fortune, his request for second survey was acceded to and the correct picture with regard to the damage caused to the property on account of earthquake was ascertained. In view of the same, the petitioner deserves more financial assistance than that was determined at the first instance. When the extensive damage has been caused to the petitioner's property and it has been placed in G-5 category, obviously, the financial aid would be in accordance with the norms prescribed by the Government, which comes to Rs.78,000/-. The chart produced by the petitioner also shows that his is not the only case, but there are several others whose first assessment was found to be on lower side and later on they were given more financial assistance. I, therefore, find substance in the submission of the petitioner as submitted before this Court.

Therefore, for the aforesaid reasons impugned order dated 7.10.2002 is quashed and set aside. Respondents are directed to pay to

the petitioner a sum of Rs.78,000 on or before 30th September 2007. Petition is allowed. Rule is made absolute with no order as to costs.

(Akshay H Mehta, J.)

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